

REMARKS

Applicants request reconsideration of the application in view of the preceding amendments and the following remarks. Claims 1, 8 and 26 have been amended. Claims 1-27 are pending. Claims 1, 8, 26 and 27 are independent claims.

Support for the amendments to the claims is found in the specification. No new matter has been added in making the amendments herein.

35 U.S.C. § 103 REJECTIONS

Claims 1-10 and 13-25, 26 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fariabi, U.S. Pat. No. 5,636,641, in view of Fagan et al., U.S. Patent No. 5,720,300. Applicants respectfully disagree with Examiner's reading of Fariabi and traverses this rejection.

The Examiner asserted in the Office Action that Fariabi discloses the limitation, recited in claims 1, 8 and 26, that "the precipitation hardened material and superelastic material extend from the proximal section to the tapered distal section" of the composite elongate core. Applicants respectfully disagree with the Examiner's interpretation of Fariabi.

At Col. 4, ll. 63-67, Fariabi indicates that reference number 17 is the "distal section" of the core member 11. However, the Office Action references only a portion of Fig. 1 of Fariabi (at page 3 of the Office action), which claims to show a "tapered distal portion of distal section." This drawing excludes the portion of Fig. 1 that includes reference numeral 17. Consequently, the portion of Fig. 1 that the Office Action cites does not show the "distal portion of the distal section," as required by the patent claims.

Furthermore, the distal section 17 disclosed by Fariabi cannot consist of both precipitation hardened material and superelastic material because of the way in which Fariabi discloses forming the tapered distal portion. Fariabi discloses forming the taper by "removing the sheath" which "exposes the inner NiTi alloy member" and, then,

"[grinding] in a conventional manner." Fariabi at col. 4, line 67, to col. 5, line 5 (emphasis added). It is respectfully asserted that this discloses grinding the exposed NiTi member to produce the taper, the NiTi member having been exposed when the sheath was removed. In order to "expose" the inner NiTi alloy member, the sheath 12 must be completely removed and, therefore, the only portion of the core member 11 which is left to be "ground" is the inner NiTi member.

The Office Action further noted that Fig. 2 of Fariabi depicts a guidewire having a proximal section (35) of the core member (32) that is of "composite construction" with a sheath of high strength Co-Ni-Cr alloy and an inner member of a pseudoelastic NiTi alloy and that the "high strength sheath (36) is removed from the core member to form the tapered distal section (31)." It is respectfully submitted that the disclosure of a proximal section of "composite construction" and "removal" of the high strength sheath disclosed by Fariabi actually supports the Applicants' assertion that the tapered distal section of Fariabi consists of only the inner NiTi member. It is respectfully asserted that Fariabi discloses the "composite construction" of the proximal section because the tapered distal section is not of composite construction. It is further respectfully asserted that "removal" of the sheath 36 means that the precipitation hardened material is no longer present, leaving only the inner NiTi alloy member 13.

In view of the previous assertions with regard to Fariabi, the precipitation hardened material (i.e. sheath 12) disclosed therein does not extend to the tapered distal section of the core member 11 since the sheath is removed to expose the NiTi alloy member 13 and the NiTi alloy member is then ground to create the tapered distal section. It is further respectfully submitted that Fagan et al. does not teach the use of more than one material and, therefore, does not teach precipitation hardened material and superelastic material that extend to the tapered distal section of the composite elongate core.

Independent claims 1, 8 and 26 have been amended to more clearly define the present invention. It is respectfully asserted that for the reasons given above, claims 1, 8, 26 and 27 are allowable over the cited references. It is further respectfully asserted that claims 2-7, which depend upon claim 1, and claims 9, 10, and 13-25, which depend upon claim 8, are also allowable over the cited references.

Claims 11 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fariabi in view of Fagan et al., in further view of Reiss et al. (PCT Publication No. WO 98/22024). Applicants respectfully traverse this rejection.

It is respectfully submitted that Reiss et al. adds nothing to the teachings of Fariabi and Fagan et al. with respect to "precipitation hardened material and superelastic material that extend from the proximal section to the tapered distal section" of the composite elongate core. Therefore, it is respectfully asserted that claim 8 is allowable over the cited references. It is further respectfully asserted that claims 11 and 12, which depend upon claim 8, are also allowable over the cited references.

On one other matter, the Applicants' attorney requested a telephone interview with the Examiner and/or her supervisor with phone messages on November 10 and 11, 2003 (recognizing that November 11, 2003 is a Federal holiday). However, Applicants' attorney has not yet heard back by the deadline to file a response. Consequently, Applicants' attorney requests the opportunity for a telephone interview prior to examination of the amended claims.

CONCLUSION

Applicants have attempted to respond to each and every rejection set forth in the outstanding Office action. Applicants believe that claims 1-27 are allowable over the cited references. In view of the above amendment and remarks, Applicants respectfully request that the application be reconsidered, the claims allowed and the application passed to issue.

The Commissioner is authorized to charge fee due or any deficiency, or may credit any overpayment to Deposit Account No. 06 2425 in connection with this paper. A duplicate copy of this paper is enclosed.

Respectfully submitted,

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